

## **FISCAL NOTE**

TO: Chief Clerk of the Senate  
Chief Clerk of the House

FROM: James A. Davenport, Executive Director

DATE: February 21, 1995

SUBJECT: **SB 1090 - HB 1177**

This bill, if enacted, will establish a Class A misdemeanor for any mortgage lender, broker, or servicer to deliver funds for disbursement at closing or settlement of a mortgage loan except in one or more of the following forms:

- (a) cash;
- (b) federal funds wire transfer;
- (c) checks drawn or certified by, or cashier's check or credit union share drafts of, a financial institution, the accounts of which are insured by an agency of the federal or state government; or
- (d) checks issued by the state of Tennessee or any political subdivision.

Further, it is also a Class A misdemeanor for any person to disburse funds from an escrow or settlement account on any real estate loan until collected funds have been received to fund all except \$1,000 of the total disbursements.

In addition to the criminal penalty, provisions of this bill give an injured party a private cause of action against the person violating this act.

The fiscal impact from enactment of this bill will depend upon the number of persons convicted of this offense and the resultant increased

cost to local governments\* to confine such persons versus the increased revenues to local governments from fines levied and collected under the provisions of this bill. Therefore, the fiscal impact cannot be readily determined, but is not estimated to be significant.

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James A. Davenport, Executive Director

\*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*